



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9624-8]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to settle a lawsuit filed by Zen Noh Grain Corporation in the United States District Court for the Eastern District of Louisiana: Zen-Noh Grain Corporation v. Jackson, Case No. 10-4367 (E.D. La.). Plaintiff filed this suit to compel the Administrator to respond to an administrative petition requesting, among other things, that EPA object to a CAA Title V operating permit issued by the Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana for a pig iron manufacturing process in St. James Parish, Louisiana. After subsequent permitting actions, Plaintiff submitted a second administrative petition requesting, among other things, that EPA object to two CAA Title V permits issued by Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana: a modified Title V permit for the aforementioned pig iron manufacturing process and a Title V permit for a direct reduced iron manufacturing process in St. James Parish, Louisiana. Under the terms of the proposed settlement agreement, EPA has agreed to respond to both petitions by March 16, 2012 to the extent that such response is required under 42 U.S.C. 7661d(b)(2).

DATES: Written comments on the proposed settlement agreement must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2012-0074, online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Melina Williams, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-3406; fax number (202) 564-5603; email address: williams.melina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

This proposed settlement agreement would resolve a lawsuit alleging, among other things, that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA Title V permit issued by the Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana for a pig iron manufacturing process in St. James Parish, Louisiana. After subsequent permitting actions, Plaintiff submitted a second administrative petition requesting, among other things, that EPA object to two CAA title V permits issued by the Louisiana Department of Environmental

Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana: a modified Title V permit for the aforementioned pig iron manufacturing process and a Title V permit issued for a direct reduced iron manufacturing process in St. James Parish, Louisiana. Under the terms of the proposed settlement agreement, EPA has agreed to respond to both petitions by March 16, 2012 to the extent that such response is required under 42 U.S.C. 7661d(b)(2). In addition, the proposed settlement agreement provides that such response would resolve all claims that were or could have been asserted against the United States in the lawsuit, as well as the claims that could be asserted in connection with the second administrative petition. The proposed settlement agreement also provides that if it becomes final, the parties shall jointly file a stipulation of dismissal with prejudice with the court, within 10 days of the date when EPA provides written notice that the proposed settlement agreement has become final. In addition, the proposed settlement agreement provides that Plaintiff shall have until 120 days after the Court enters an Order of Dismissal as provided in the proposed settlement agreement to file a motion for costs of litigation (including attorney fees), that the parties shall seek to informally resolve any claim for costs of litigation, and that EPA reserves the right to object to the award of any such costs.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements

of the Act. Unless EPA or the Department of Justice determines that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional information about commenting on the proposed settlement agreement.

A. How Can I Get A Copy Of the Settlement Agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2012-0074) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use the www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in

the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public

docket system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA’s electronic public docket, EPA’s electronic mail (e-mail) system is not an “anonymous access” system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA’s electronic public docket.

Dated: January 25, 2012.

Patricia Embrey
Acting Associate General Counsel

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